

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-110025
		C-110026
Plaintiff-Appellee,	:	TRIAL NOS. B-0609322
		B-0609775
vs.	:	
		<i>JUDGMENT ENTRY.</i>
JAMES BOHANNON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Defendant-appellant James Bohannon's convictions were remanded to the trial court because he had been convicted of allied offenses of similar import. Pursuant to our remand, the trial court conducted a new sentencing hearing and merged the appropriate counts. He again appeals.

After a thorough review of the record, appointed counsel has advised this court that there are no arguable assignments of error to present on appeal. *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396. Counsel has advised Bohannon of this determination and has asked this court to conduct an independent review of the record to determine whether the proceedings below were free from prejudicial error. *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302. Counsel has also moved to withdraw as Bohannon's attorney.

After reviewing the record, we agree that the proceedings below were free from prejudicial error. *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346. But we note that the trial court failed to address the issue of court costs at the sentencing hearing or in its judgment entry. R.C. 2947.23(A); *State v. Joseph*, 126 Ohio St.3d

482, 2010-Ohio-4389, 935 N.E.2d 394; *State v. White*, 103 Ohio St.3d 580, 2004-Ohio-5989, 817 N.E.2d 393. We therefore remand the case to the trial court to address the issue and to make the appropriate order in its judgment entry. Accordingly, we affirm the trial court's judgment in all other respects and overrule counsel's motion to withdraw. We find the appeal to be frivolous, but refrain from taxing costs or expenses because Bohannon is clearly indigent.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27.

DINKELACKER, P.J., SUNDERMANN and FISCHER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 23, 2011

per order of the Court _____.

Presiding Judge